IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9308 of 2000

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KHUMANBHAI RUPSINGBHAI VASAVA - Petitioner(s)
Versus
DIVISIONAL CONTROLLER - Respondent(s)

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Appearance :
MR ANIL C THAKORE for Petitioner No.1,
MR DIPEN A DESAI for Respondent No.1,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 26/09/2007

ORAL JUDGMENT

1. The petitioner, a Conductor employed by the respondent – Gujarat State Road Transport Corporation (hereinafter referred to as “the Corporation), has challenged the judgment and award dated 8th June, 2000 passed by the learned Labour Judge, Surat in Reference (LCS) No. 241

of 1998.

2. It appears that the petitioner was employed as a Conductor by the Corporation. While in service, he remained absent from service from 9th November, 1997 to 1st December, 1997. For this act of misconduct, a disciplinary proceeding was conducted against him. On the guilt being proved, by order dated 29th April, 1998, he was removed from service. Feeling aggrieved, he raised industrial dispute which came to be referred to the Labour Court, Surat and registered as Reference (LCS) No.241 of 1998. The Labour Judge, by the impugned judgment, rejected the claim of the workman. The Labour Court observed that the imputation of charge made against the workman was proved; that his service record was not satisfactory; that in past he was punished for as many as 31 misconducts, of which 14 were that of remaining absent from service. On one such occasion, by order dated 27th September, 1996, he was dismissed from service. Considering the above facts, the learned Judge was of the opinion that the punishment of removal from service imposed upon the workman was just and proper and refused to invoke powers conferred by

Sec.11-A of the Industrial Disputes Act, 1947. Feeling aggrieved, the workman has preferred the present petition.

3. Learned advocate Mr.Thakore has appeared for the petitioner. He has submitted that the petitioner is now about to reach the age of superannuation. He has submitted that pending the present petition, on 26th January, 2001, the petitioner has made representation to the Divisional Controller, Surat. He has submitted that the petitioner shall pursue the said representation and shall accept the decision on the said representation as final and binding to him.

4. In view of the submissions made by Mr.Thakore, the petition is disposed of. The petitioner – workman will be at liberty to pursue the representation dated 26th January, 2001 made to the Divisional Controller, Surat. The decision of the Divisional Controller, Surat on the said representation shall be final and binding to the petitioner workman. In the event the said representation is rejected, the same shall not give a fresh cause of

action to the petitioner.

5. Subject to the above observations, rule is discharged. The parties shall bear their own cost.

(Ms.R.M. Doshit, J.)

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